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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/738,786	12/15/2000	Kevin McCombe	40101/01101	3798

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EXAMINER

BAROT, BHARAT

ART UNIT PAPER NUMBER

2155

DATE MAILED: 12/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/738,786

Applicant(s)

MCCOMBE ET AL.

Examiner

Bharat N. Barot

Art Unit

2155

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 October 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

RESPONSE TO APPEAL BRIEF

1. Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.
2. Claims 1-11 remain for further examination. Applicants' arguments with respect to claims 1-11 filed on October 03, 2005 have been fully considered.

The new grounds of rejection

3. Applicants' arguments with respect to claims 1-11 filed on October 03, 2005 have been fully considered but they are deemed to be moot in view of the new grounds of rejection.

Claim Rejections - 35 USC § 103(a)

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
5. Claims 1-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Morwood (U.S. Patent No. 6,470,346) in view of Peters et al (U.S. Patent No. 6,385,637).

6. As to claim 1, Morwood disclose a system for managing a plurality of client processes (see abstract; figures 1-2; and column 2 lines 33-67), comprising: a client task within which the client processes will be executed (column 1 lines 50-63; column 2 lines 33-67; and column 14 line 64 to column 15 line 52); and a manager task running at a higher priority than the client task, the manager task queuing the client processes into the client task in priority order (figures 2-3; column 4 lines 15-22; and column 8 line 16 to column 9 line 28).

However, Morwood does not explicitly disclose that the manager task kills the client task when a current one of the client processes is not completed within a predetermined time period.

Peters et al explicitly discloses that the manager task kills the client task when a current one of the client processes is not completed within a predetermined time period (see abstract; figure 2; column 1 lines 32-53; column 12 lines 40-46; column 7 line 57 to column 8 line 8; column 8 lines 42-60; column 9 lines 5-26; and column 10 line 50 to column 11 line 16).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Peters et al as stated above with the system of Morwood for managing a plurality of client processes because it would have provided a novel timing method and apparatus to manage the plurality of client processes and control network communication traffic, maximized network latency, and reduced or eliminated time delay.

7. As to claims 2-3, Morwood disclose that the manager task restarts the client task and queues a next one of the client processes into the client task or requeues the current client process into the client task (figures 3, 11, and 14; column 9 lines 9-21; column 12 lines 16-37; and column 13 lines 24-47).

8. As to claims 4-5, Morwood disclose that the client task sends a response to the manager task indicating the execution of the current client process is complete; and the manager task, when receiving the response from the client task, queues a next one of the client processes into the client task (column 9 lines 4-21; column 10 lines 51-64; and column 12 lines 6-37).

9. As to claims 6-10, they are also rejected for the same reasons set forth to rejecting claims 1-5 above, since claims 6-10 are merely a method of operation for the apparatus defined in the claims 1-5.

10. As to claim 11, it is also rejected for the same reasons set forth to rejecting claim 1 above, since claim 11 is merely a computer-readable storage medium storing a set of instructions to manage the apparatus defined in the claim 1.

Response to Arguments

11. Applicant's arguments have been fully considered. The examiner has attempted to answer (response) to the remarks (arguments) in the body of the Office action.

Additional References

12. The examiner as of general interest cites the following references.
- a. Lai et al, U.S. Patent No. 6,888,477.
 - b. Singh, U.S. Patent No. 6,389,447.

Contact Information

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Bharat Barot** whose Telephone Number is **(571) 272-3979**. The examiner can normally be reached on Monday-Friday from 9:30 AM to 6:00 PM. Most facsimile-transmitted patent application related correspondence is required to be sent to the Central FAX Number **(571) 273-8300**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Saleh Najjar**, can be reached at **(571) 272-4006**.

Patent Examiner Bharat Barot

Art Unit 2155

December 20, 2005


BHARAT BAROT
PRIMARY EXAMINER